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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,463

11/21/2003

Bruce A. Williams

3044-73785

2599

23643 7590 04/10/2008  
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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

04/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,463	<b>Applicant(s)</b> WILLIAMS, BRUCE A.	
	<b>Examiner</b> Mathieu D. Vargot	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-11 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata et al essentially for reasons of record as set forth in paragraph 3 of the previous action with these additional comments. While it is believed that one of ordinary skill in the art would have modified Hirata et al in removing the bottom wall portion of the label, the prior art of the reference clearly shows no such wall portion. It is submitted that as long as the bottom end of the side wall portion of the label extends below the bottom of the container—ie, where the resin will flow—the occurrence of resin flowing onto the outer surface of the label would not be problematic. Hence, Hirata et al can just as easily be used for its admitted prior art, wherein the standoffs are taught in the invention disclosed by Hirata et al. Applicant has never disputed the fact that Hirata et al teaches standoffs, and the standoffs would certainly help stabilize the label of the admitted prior art. Hence, if the claims are not obvious over Hirata et al as set forth in the invention disclosed therein, then they are obvious over the admitted prior art of Hirata et al taken in combination with the standoffs taught in Hirata et al.

2.Claims 6, 7, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata et al in view of Raymond et al 2005/0053737 for reasons of record as set forth in paragraph 4 of the previous action and the rationale advanced in paragraph 1, supra.

3. Applicant's arguments filed January 8, 2008 have been fully considered but they are not persuasive. While applicant's comments are persuasive with respect to the 112 new matter and the 102 rejection, the 103 has been maintained. Applicant notes that Hirata et al denigrates the prior art and teaches that the bottom wall of the label is important. That is true. However, the prior art is denigrated because the bottom of the side wall of the label is higher—see Fig. 21A—than the container's bottom, and hence resin will flow onto the outer surface of the label. However, the side wall of the label of Hirata et al is clearly shown to be below the bottom of the container. Hence, even if the bottom wall were to be removed, the flow of resin onto the front of the label would not be problematic. Especially since Hirata et al teaches the instant stand-offs, or structure which would read thereon. Applicant has never disputed that Hirata et al teaches stand-offs, and it is believed that one of ordinary skill in the art would realize that the reference would have been modified in the manner set forth in the instant claims. Again, obviousness only requires a reasonable expectation that something will work, not an assurance. Also, it is believed that a proper rejection exists using the admitted prior art of Hirata et al in view of the disclosure in Hirata et al concerning the invention taught therein, with respect to the stand-offs. Since Hirata et al is still being relied upon as the applied reference, it is submitted that rejecting the claims over the prior art of Hirata et al in view of the disclosure of Hirata et al would not constitute a new rejection. Hirata et al has been applied for all it teaches one of ordinary skill in the art, and it is respectfully submitted that instant claims 1-5, 8-11 and 14-20 are obvious thereover.

**4.THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 1791

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
April 8, 2008

/Mathieu D. Vargot/  
Primary Examiner, Art Unit 1791